
IN THE HOUSE OF REPRESENTATIVES.

FEBRUARY 7, 1867.

Read twice, ordered to be printed, and recommitted to the Committee on the Militia.

Mr. PAINE, from the Committee on the Militia, reported the following bill:

A BILL

To provide for organizing, arming, and disciplining the militia, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That all able-bodied male persons who shall have been born
4 or naturalized in the United States, or shall have declared,
5 according to law, their intention to become citizens thereof,
6 or shall have actually voted at any State, territorial, county,
7 or municipal election therein, and shall be residents of any of
8 the States or Territories thereof, and not less than eighteen
9 nor more than forty-five years of age, excepting only Indians
10 not taxed, idiots, lunatics, and persons convicted of any in-
11 famous crime, shall be liable to enrolment in the enrolled
12 militia in accordance with the provisions of the twenty-
13 seventh section of this act.

1 SEC. 2. *And be it further enacted,* That the national
2 guard of active militia shall consist of two regiments of in-
3 fantry in each congressional district and Territory represented
4 in the Congress of the United States, and also such other
5 forces of infantry, cavalry, and artillery, as the respective
6 States and Territories, so represented, may organize, arm,
7 and equip, in accordance with the system prescribed in this
8 act, all of which troops shall be organized of volunteers;
9 and no person shall be an officer, non-commissioned officer,
10 or private in said national guard who shall be disqualified
11 for, or exempt from, enrolment in the enrolled militia, or
12 shall ever have voluntarily borne arms against the United
13 States, or shall have voluntarily given aid, countenance, coun-
14 sel, or encouragement to persons engaged in armed hostility
15 thereto, or shall have sought, or accepted, or attempted to
16 exercise the functions of any office whatever under any
17 authority or pretended authority in hostility thereto, or shall
18 have yielded a voluntary support to any pretended govern-
19 ment, authority, power, or constitution within the United
20 States hostile or inimical thereto; and there shall be no dis-
21 crimination between white and colored persons under this act,
22 but they shall respectively be entitled to separate company
23 and regimental organizations, and the number of white and
24 colored troops, respectively, armed, equipped, clothed, and
25 paid by the United States, in each congressional district and

26 Territory under the provisions of this act, shall be propor-
27 tionate to the white and colored population thereof.

1 SEC. 3. *And be it further enacted*, That there shall be
2 an Assistant Secretary of War, appointed by the President,
3 by and with the advice and consent of the Senate, who shall
4 be specially charged with the execution of all laws of Con-
5 gress enacted to provide for organizing, arming, and discipl-
6 lining the militia; and the Secretary of War shall detail for
7 his assistance the necessary staff officers of the adjutant gen-
8 eral's, quartermaster general's, and ordnance departments, and
9 shall appoint the necessary clerks, and classify the same for
10 payment, according to law.

1 SEC. 4. *And be it further enacted*, That the national
2 guard shall be organized in accordance with the following
3 provisions, viz: First. Each company of infantry, cavalry,
4 and artillery shall, in pursuance of authority from the gover-
5 nor of the State or Territory, be formed of the lawful num-
6 ber of persons, having all the qualifications prescribed by this
7 act for enrolment in the enrolled militia and for enlistment in
8 the national guard, who shall take and subscribe, in duplicate,
9 the following oath or affirmation: "I do solemnly swear (or
10 affirm) that I am a resident of the town, county, and State, or
11 Territory, prefixed to my signature, and am, in all respects,
12 qualified for enrolment in the enrolled militia and enlistment
13 in the national guard, under the provisions of the act entitled

14 'An act to provide for organizing, arming, and disciplining the
15 militia, and for other purposes;' that I have enlisted for a
16 term of three years in the national guard, and that I have
17 never voluntarily borne arms against the United States since
18 I have been a citizen thereof, and have voluntarily given no
19 aid, countenance, counsel, or encouragement to persons
20 engaged in armed hostility thereto; that I have neither
21 sought, nor accepted, nor attempted to exercise the func-
22 tions of any office whatever, under any authority, or pre-
23 tended authority, in hostility to the United States; that
24 I have not yielded a voluntary support to any pretended
25 government, authority, power, or constitution within the
26 United States hostile or inimical thereto; and I do further
27 swear (or affirm) that, to the best of my knowledge and
28 ability, I will support and defend the Constitution of the
29 United States against all enemies, foreign and domestic; that
30 I will bear true faith and allegiance to the same; that I take
31 this obligation freely, without any mental reservation or pur-
32 pose of evasion, and that I will well and faithfully discharge
33 my duties as a member of the national guard, so help me
34 God;" which oath may be taken and subscribed before any
35 justice of the peace, notary public, or other officer legally
36 authorized to administer oaths in the district or Territory
37 where such company shall be organized; and any person who
38 shall falsely take such oath shall be guilty of perjury, and,

39 upon conviction thereof in any federal, State, or territorial
40 court of competent criminal jurisdiction in such district or
41 Territory, shall be punished by a fine not exceeding five thou-
42 sand dollars, or by imprisonment in any penitentiary or jail
43 of such State, Territory, or district, not exceeding five years,
44 or both, at the discretion of the court, and shall also be stricken
45 from the roll of the national guard. Second. After said oath
46 shall have been taken and subscribed by the members of any
47 company as aforesaid, they shall elect one captain, one first
48 lieutenant, and one second lieutenant. Third. The officers so
49 elected shall annex to the aforesaid oath their official certifi-
50 cate, in duplicate, setting forth that they were severally
51 elected officers of such company, according to law, and show-
52 ing the time and place of such election, and the office to which
53 each was chosen, and shall thereupon transmit one oath and
54 certificate to the governor of the State or Territory and the
55 other to the Assistant Secretary of War; and if no fraud or
56 illegality shall appear in such organization or election, the
57 governor shall commission the said officers and assign the
58 companies so organized to regiments, brigades, and divisions,
59 but not before a sufficient number of such companies shall have
60 been organized to constitute, in accordance with the provisions
61 of this act, regiments, brigades, and divisions respectively; and
62 after such regiments, brigades, or divisions, shall have been so
63 organized, respectively, the officers thereof may be elected or

64 appointed as provided in the sixth section of this act ; and no
65 militia in any State or Territory of the United States shall be
66 organized or maintained except in pursuance of the provisions
67 of this act ; and the organization of companies, regiments,
68 brigades, and divisions shall be that of the army of the
69 United States, but four regiments of infantry shall constitute
70 one brigade, and two brigades one division ; and those per-
71 sons only shall be eligible to such commissions who shall have
72 all the qualifications for enrolment in the enrolled militia, and
73 enlistment in the national guard, in this act prescribed.

1 SEC. 5. *And be it further enacted,* That all persons who
2 shall enlist in the national guard shall be held for a term of
3 service of three years from the date of their muster in, unless
4 sooner discharged ; and all commissioned officers shall hold
5 their offices until the expiration of three years from the date
6 of their original muster in, unless sooner discharged ; and all
7 officers, non-commissioned officers and privates who shall have
8 honorably served until the expiration of such term shall, at
9 their option, be exempt from further military service in time
10 of peace, but shall be liable to enrolment thereafter in the
11 enrolled militia until the age of forty-five years, and shall
12 be eligible to commissions until fifty-five years of age.
13 and any person who shall become an idiot, or lunatic,
14 or be convicted of any infamous crime, after muster into the
15 national guard, shall be stricken from the rolls thereof ; and

16 officers, non-commissioned officers, and privates shall be ex-
17 empt from duty in the national guard, in time of peace, when
18 absent from the congressional district or Territory in which
19 they shall have respectively enlisted, and may be discharged
20 from service for disability by the governor of the State or
21 Territory.

1 SEC. 6. *And be it further enacted,* That all brigade and
2 division officers shall be appointed and commissioned by the
3 governor of the State or Territory; and all commissioned offi-
4 cers of regiments and companies shall be elected by such regi-
5 ments and companies, respectively, and commissioned by the
6 governor of the State or Territory; and all non-commissioned
7 regimental and company officers shall be appointed by war-
8 rant of the regimental commander; and all elections to fill
9 original or other vacancies, except the original elections of
10 company officers, shall be held by ballot, at such times and
11 places and under such regulations as the governors of the
12 respective States and Territories shall prescribe; and if any
13 company or regiment shall fail to fill any vacancy by election,
14 the governor of the State or Territory shall, without delay,
15 fill the same by appointment; and in any election the person
16 having the highest number of votes cast for any office shall
17 be elected; but the provisions of this section shall not apply to
18 any State in which a different mode of appointment of officers
19 of the national guard shall be prescribed by law.

1 SEC. 7. *And be it further enacted,* That vacancies in
2 the ranks of any company may at any time be filled to the
3 maximum number assigned by law thereto, by volunteers,
4 who shall have all the qualifications prescribed by law for
5 enrolment in the enrolled militia, and for enlistment in the
6 national guard, and shall take and subscribe, in duplicate,
7 the oath prescribed in the fourth section of this act, before
8 some officer authorized by the provisions of said section to
9 administer the same, and shall be subject to all the penalties
10 prescribed in said section for falsely taking such oath ; and
11 one of said duplicates shall be transmitted, without delay,
12 through the regular military channels, to the Assistant Secre-
13 tary of War, and the other to the governor of the State or
14 Territory.

1 SEC. 8. *And be it further enacted,* That, in addition to
2 the officers provided for in the preceding sections of this act,
3 there shall be in each State and Territory a commander-in-
4 chief and an adjutant general of the militia therein ; and the
5 governor shall be such commander-in-chief in each Terri-
6 tory, and also in each State, unless it shall be otherwise pro-
7 vided by the constitution or laws of such State ; and said
8 adjutant general shall be commissioned by the governor, and
9 shall have the rank of brigadier general ; and said officers
10 shall receive for their services under this act, from their re-
11 spective States and Territories, such compensation as may be

12 provided by the laws thereof; and said commander-in-chief
13 shall exercise all such authority over the militia, including the
14 national guard, as is reserved by the Constitution to the
15 States; but orders, returns, reports, and other official com-
16 munications issued or received by the Assistant Secretary
17 of War within the scope of his authority shall not be
18 transmitted through said commander-in-chief or adjutant
19 general of the militia; and it shall be the duty of said adju-
20 tant general, under the orders of said commander-in-chief, to
21 train the national guard according to the discipline prescribed
22 in this act; to inspect the same thoroughly at least once in
23 each year; to receive the returns, reports, and other official
24 communications provided for in this act; to transmit annually,
25 in October, to the Assistant Secretary of War, for the informa-
26 tion of the government of the United States, three separate con-
27 solidated returns, one for ordnance and ordnance stores, one
28 for camp and garrison equipage and clothing, and one for the
29 adjutant general's department, and also a report of the inspec-
30 tions by him made, in obedience to the provisions of this act,
31 which report shall show the discipline of the troops of the
32 national guard within the State or Territory, their instruction
33 in military exercises and duties, the state of their arms,
34 clothing, equipments, and accoutrements of all kinds, the state
35 of the division, brigade, regiment, and company books, papers,
36 and files, the zeal and ability of their officers, the condition of

37 all public property, the fidelity and care of officers responsible
38 therefor, and all other important matters affecting the
39 efficiency of said troops.

1 SEC. 9. *And be it further enacted,* That in time of
2 peace the national guard shall obey all orders issued by the
3 Assistant Secretary of War in organizing and arming the
4 militia within the scope of the powers conferred upon
5 Congress over the militia by the Constitution, and shall
6 obey all orders issued by the governors of the respective
7 States and Territories within the scope of the authority re-
8 served by the Constitution to the States; and the Assistant
9 Secretary of War and governor of each State and Territory
10 shall, without delay, furnish each other with copies of all
11 orders issued by them, respectively, to the national guard in
12 such State and Territory; and each State and Territory shall
13 have power to provide for training the national guard therein
14 according to the discipline prescribed in this act, and for calling
15 forth the same to execute the laws thereof and suppress insur-
16 rections therein, and for the appointment of all officers of the
17 same; but neither the governor nor the adjutant general of
18 the militia in any State or Territory, nor the Assistant Secre-
19 tary of War, shall exercise any authority whatever over the
20 national guard or any part thereof until they shall have respec-
21 tively taken and subscribed the oath prescribed in the act
22 entitled "An act to prescribe an oath of office, and for other

23 purposes," approved July two, eighteen hundred and sixty-
 24 two; and they shall each be subject to all the penalties pre-
 25 scribed by law for falsely taking said oath.

1 SEC. 10. *And be it further enacted,* That whenever any
 2 company of infantry shall have been lawfully organized and
 3 mustered into the national guard, the captain of each company
 4 shall draw, for its use, from the proper departments, on his
 5 requisitions, approved by intermediate commanders, and by
 6 the governor of the State or Territory, and on the order of
 7 the Assistant Secretary of War, the following articles of
 8 public property, viz: For each non-commissioned officer,
 9 musician, and private, one rifle, (or musket,) one bayonet,
 10 with scabbard, waist belt and belt plate, one cartridge-
 11 box, with cartridge-box plate, shoulder belt and belt
 12 plate, one cap pouch, one cone pick, one wiper, one ball
 13 screw, one knapsack, one canteen, one haversack, one coat,
 14 one cap, and one pair of trowsers; for every fifteen non-com-
 15 missioned officers, musicians, and privates, one tent, two camp
 16 kettles, and five mess pans; for the non-commissioned offi-
 17 cers and musicians, fifteen non-commissioned officers' swords,
 18 with scabbards, belts, and belt plates, one fife and one drum;
 19 for the commissioned officers, three swords, with scabbards,
 20 belts, and belt plates, and two tents. But the provisions of
 21 this section shall only apply to two regiments in any one con-
 22 gressional district or Territory, and said issues shall be made

23 to white and colored troops in the proportion fixed by the
 24 second section of this act.

1 SEC. 11. *And be it further enacted,* That whenever any
 2 regiment of infantry shall have been lawfully organized and
 3 mustered into the national guard, the commanding officer
 4 thereof shall draw, for the use of such regiment, and of the
 5 field, staff, and non-commissioned staff officers thereof, from
 6 the proper departments, on his requisitions, approved by the
 7 intermediate commanders, [if there shall be any such, and
 8 by the governor of the State or Territory, and on the order of
 9 the Assistant Secretary of War, the following articles of
 10 public property, viz: For each field and staff officer, one
 11 tent, one sword with scabbard, belt and belt-plate, one
 12 saddle, one bridle, and one pair of spurs; for each non-
 13 commissioned staff officer, one rifle, (or musket,) one bayo-
 14 net, with scabbard, waist-belt and belt-plate, one cartridge
 15 box, with cartridge-box plate, shoulder-belt and belt-plate,
 16 one cap pouch, one cone pick, one wiper, one ball screw, one
 17 knapsack, one canteen, one haversack, one coat, one cap, one
 18 pair of trowsers, and one non-commissioned officer's sword,
 19 with scabbard, belt, and belt-plate; for the whole non-com-
 20 missioned staff, one tent, two camp kettles, and five mess
 21 pans; for the regiment, one national color, one regimental
 22 color, four camp colors, and one field piece, with carriage,
 23 caisson, and equipments and implements; but the provisions

24 of this section shall only apply to two regiments in any one
25 congressional district or Territory, and said issues shall be
26 made to the commanders of white and colored regiments as
27 nearly as practicable in the proportion fixed by the second
28 section of this act.

1 SEC. 12. *And be it further enacted,* That whenever
2 any brigade shall have been lawfully organized the com-
3 mander thereof shall draw, on his requisitions approved by
4 the division commander, if there shall be one, and by the
5 governor of the State or Territory, and on the order of the
6 Assistant Secretary of War, from the proper departments,
7 for the use of himself and his staff officers, each one sword,
8 with scabbard, belt and belt-plate, one saddle, one bridle, one
9 pair of spurs, and one tent; but the provisions of this section
10 shall be restricted to one brigade for every two congressional
11 districts of any State represented in the Congress of the
12 United States.

1 SEC. 13. *And be it further enacted,* That whenever any
2 division shall have been lawfully organized the commander
3 thereof shall draw, on his requisitions approved by the gov-
4 ernor of the State or Territory and on the order of the
5 Assistant Secretary of War, from the proper department, for
6 himself and his staff officers, each one sword, with scabbard,
7 belt and belt-plate, one saddle, one bridle, one pair of spurs,
8 and one tent; but the provisions of this section shall be

9 restricted to one division for every four congressional dis-
10 tricts of any State represented in the Congress of the United
11 States.

1 SEC. 14. *And be it further enacted,* That all public
2 property issued under the provisions of this act to the
3 national guard, including clothing, shall remain the property
4 of the United States, always subject to the control of the
5 officer responsible therefor, and always in his actual posses-
6 sion when not in use in the active performance of military
7 duty required or authorized by this act; and no such clothing
8 or other property shall be used except in the perform-
9 ance of such duty, but the same shall be kept in the
10 armories provided for in section twenty-one of this act,
11 and shall be turned over by such officer to his suc-
12 cessor in office, or to any other person legally authorized
13 to receive the same; and every officer to whom such
14 property shall be issued or turned over shall be responsible
15 for the lawful use and careful preservation of the same,
16 and if any officer, non-commissioned officer, or private, or
17 other person, shall, without good and sufficient excuse, injure,
18 lose, damage, waste, or destroy any of such property, he
19 shall be liable to the officer responsible therefor, and also to
20 the United States for double damages and costs, recoverable
21 in any federal, State, or territorial court of competent juris-
22 diction; and if any person shall wantonly, maliciously, or

23 wilfully injure, lose, damage, destroy, or waste any of such
24 property, or use the same, or permit it to be used at times or
25 places or in modes not authorized by law, he shall be liable
26 to indictment therefor in any federal, State, or territorial court
27 of competent criminal jurisdiction, and, upon conviction
28 thereof, to punishment by a fine not exceeding ten thousand
29 dollars, one-half of which shall be paid to the informer, or
30 by imprisonment in a penitentiary or jail of the district or
31 Territory, for a period not exceeding one year, or both, at the
32 discretion of the court, and shall pay the costs of prosecution.

1 Sec. 15. *And be it further enacted*, That every com-
2 manding officer entitled to receive public property under the
3 provisions of this act shall have authority to draw, from time
4 to time, from the proper departments, on his requisitions, ap-
5 proved by intermediate commanders and by the governor of
6 the State or Territory, and on the order of the Assistant Sec-
7 retary of War, such articles issued under the provisions of this
8 act as shall be necessary to supply deficiencies; but only one
9 cap, one coat, and one pair of trowsers each shall be issued for
10 the use of the same men, or their successors, in three years;
11 and all public property issued under the provisions of this act
12 shall be delivered by the United States at the headquarters
13 of the divisions, brigades, regiments, and companies to which
14 the same shall be issued.

1 Sec. 16. *And be it further enacted*, That the times and

2 places for division, brigade, battalion, company, and squad
3 drills, and other military duties and exercises, shall be fixed
4 by each State and Territory by law, or by command of the
5 governor thereof, but if not so fixed in any State or Terri-
6 tory, shall be such as the respective commanding officers of
7 the national guard therein shall appoint; but there shall be
8 in the aggregate not less than three days of such drills and
9 other military duties and exercises in each year; and there
10 shall also be in each brigade a brigade encampment, and in
11 each detached regiment a regimental encampment, of five
12 days in each year, commencing on the last Monday of Sep-
13 tember, for such drills and other military exercises and duties,
14 at such places and under such regulations as the Assistant
15 Secretary of War shall prescribe.

1 SEC. 17. *And be it further enacted,* That all commanders
2 of companies shall make quarterly company returns to regi-
3 mental headquarters on the first day of January, April, July,
4 and October; and all commanders of regiments, brigades,
5 and divisions shall make quarterly returns of their commands
6 through the regular military channels, between the first and tenth
7 days of the same months, to the governors of their respective
8 States and Territories, and also to the Assistant Secretary
9 of War; and all officers responsible for public property shall
10 make two separate quarterly returns thereof, one of ordnance
11 and ordnance stores, and the other of camp and garrison

12 equipage and clothing, which shall be forwarded in duplicate
13 to the Assistant Secretary of War, and to the governors of
14 the respective States and Territories, between the first and
15 tenth days of January, April, July, and October; and all of
16 said returns shall be made, under such regulations as the
17 Assistant Secretary of War shall prescribe, upon printed
18 blanks, which shall be furnished by him on requisitions made
19 annually or oftener if necessary.

1 SEC. 18. *And be it further enacted,* That all command-
2 ers of brigades and detached regiments shall make semi-annual
3 inspections of their commands, by regiments or companies, at
4 such times and places as the Assistant Secretary of War
5 shall direct; and all commanders of divisions and de-
6 tached brigades, and all commanders of detached regiments,
7 shall, respectively, at the annual brigade or regimental en-
8 campments provided for in this act, inspect the troops, who
9 shall also, at such encampments, be reviewed and mustered
10 for payment; and reports of the inspections so made—showing
11 the discipline of the troops, their instruction in all military
12 exercises and duties, the state of their arms, clothing, equip-
13 ments, and accoutrements of all kinds, and of the brigade,
14 regimental, and company books, papers, and files; the con-
15 dition, situation, and manner of taking care of all public
16 property; the fidelity and care of all officers responsible
17 therefor; the mode of enforcing discipline; and other impor-

18 tant information concerning the troops—shall be without
19 delay forwarded, through the intermediate commanders, to
20 the Assistant Secretary of War and to the governor of the
21 State or Territory.

1 SEC. 19. *And be it further enacted*, That no officer shall
2 be dishonorably dismissed or cashiered, in time of peace, ex-
3 cept by sentence of a general court-martial; and no non-com-
4 missioned officer shall be reduced to the ranks, in time of peace,
5 by a regimental commander, without the approval of a superior
6 commanding officer.

1 SEC. 20. *And be it further enacted*, That all officers,
2 non-commissioned officers, musicians, and privates of the
3 national guard, armed, equipped, and paid by the United
4 States, in accordance with the provisions of this act, shall,
5 while on duty at any muster, drill, parade, or encampment,
6 required by this act, and while going to and returning from
7 the same, be privileged from arrest in all cases except treason,
8 felony, and breach of the peace, and exempt from capitation
9 taxes, from labor upon the public highways, and from the
10 duty of attendance as parties or witnesses upon any federal,
11 State, or territorial courts.

1 SEC. 21. *And be it further enacted*, That each officer,
2 non-commissioned officer, musician, and private shall re-
3 ceive from the United States two dollars per diem for
4 the performance of military duty at the drills, encamp-

5 ments, and other exercises and duties provided for in
6 this act; but such payment shall not in any case exceed
7 ten dollars per annum; and each division, brigade, regi-
8 mental, and company commander, when responsible for public
9 property under the provisions of this act, shall, if not delin-
10 quent in the performance of any of the duties herein pre-
11 scribed, receive from the United States fifty dollars per
12 annum, in full compensation for his care of and responsibility
13 for such property; and each regimental and company com-
14 mander, when so responsible for public property, shall also
15 receive the sum of fifty dollars per annum for the rent of an
16 armory actually used for the safe-keeping of the same; and
17 it shall be the duty of each commissioned officer to pro-
18 vide himself with the uniform prescribed in the regulations
19 for the army of the United States, and if not delinquent
20 in the performance of this or any other military duty,
21 he shall receive from the United States, on account of
22 clothing, twenty dollars per annum, and all of said payments
23 shall be made annually, through the pay department, under
24 such regulations as the Secretary of War shall prescribe, but
25 the payments herein authorized shall be made only to the
26 officers, non-commissioned officers, and privates of two
27 regiments of infantry in each congressional district and Ter-
28 ritory, and to the officers of the brigades and divisions into
29 which such regiments may be organized under the provisions

30 of this act; and no officers, non-commissioned officers, or pri-
31 vates shall be paid by the United States, under the provisions
32 of this act, in time of peace, except those to whom, or for
33 whose use, public property of the United States shall have
34 been issued, as in this act provided; and white and colored
35 troops shall be paid as nearly as practicable in the proportion
36 fixed by the second section of this act.

1 SEC. 22. *And be it further enacted,* That any officer,
2 non-commissioned officer, or private who shall, without a
3 sufficient excuse, in disobedience of any lawful order, neglect
4 or refuse to perform military duty at any muster, drill, parade,
5 encampment, or other exercise of his company, regiment,
6 brigade, or division, shall, by order of his immediate com-
7 mander, be fined two dollars for each day's absence, and such
8 fine shall be stopped from the pay of the delinquent, or, by
9 command of the officer imposing it, levied upon his personal
10 property not exempt from execution by the laws of the State
11 or Territory of the United States, by a commissioned officer,
12 or sheriff or constable, who shall sell the same at public auc-
13 tion to the highest bidder, after five days' written or printed
14 notice of sale, posted in three conspicuous places in the town-
15 ship in which such delinquent shall reside or said property be
16 found, and out of the proceeds of such sale the officer
17 making the same shall pay said fine into the treasury of
18 the State or Territory, and shall retain such fees and

costs as shall be allowed by law to sheriffs or constables for sales of personal property on execution, and shall pay over the residue to the officer, non-commissioned officer, or private so fined ; but upon any application made by any officer, non-commissioned officer, or private so fined, within five days after notice of such fine, the order imposing the same shall be forwarded to the immediate commander of the officer who shall have imposed it, who shall review the case, and his order in the premises shall be final, and shall be executed as above provided ; and for all other offences officers, non-commissioned officers, and privates shall be liable to punishment by court-martial, according to the laws of the several States and Territories, or the orders of the governors thereof.

1 *SEC. 23. And be it further enacted,* That whenever any
2 troops of the national guard shall be ordered into the service
3 of the United States, according to law, or shall, according
4 to law, become a part of the army of the United States,
5 upon a declaration of war by Congress, they shall be entitled
6 to the same pay and allowances and to the same issues of
7 commissary's and quartermaster's stores which shall be provided
8 by law for troops of like arms in the regular service ;
9 and in case of wounds, injuries, disability, or death, suffered
10 in the line of duty, all provisions of law for the regular army
11 in such cases shall be extended to them, their widows,
12 children, and personal representatives.

1 SEC. 24. *And be it further enacted,* That it shall
2 be the duty of the Assistant Secretary of War to see that
3 this act and all other acts of Congress to provide for organ-
4 izing, arming, and disciplining the militia are faithfully
5 executed; to superintend the distribution and preservation of
6 all ordnance and ordnance stores, camp and garrison equipage,
7 clothing and other public property issued to the national
8 guard; to prepare and issue to the national guard blank en-
9 listment oaths, muster-rolls, requisitions, reports, returns, and
10 receipts; to see that proper receipts are taken for all public
11 property issued to the national guard, and that all delin-
12 quents are promptly and diligently prosecuted; to present to
13 Congress annually, before the first day of January, an abstract
14 of the annual returns of the militia; to receive, through the
15 regular military channels, from the officers of the national
16 guard, the returns, reports, and other official communications,
17 required of them by law; to superintend the schools of the
18 national guard; and to perform all other duties prescribed
19 by law.

1 SEC. 25. *And be it further enacted,* That Congress may
2 provide for calling forth the whole or any part of the national
3 guard into the service of the United States to execute
4 the laws thereof, when the execution of the same shall be ob-
5 structed by combinations or forces too strong to be overcome by
6 the civil authorities, to repel invasion, and to suppress insurrec-

7 tions against the authority of the United States, and also to aid
8 in the execution of the laws of any State, and the suppression
9 of insurrection therein, on application of the legislature, or of
10 the executive when the legislature cannot be convened; and
11 the national guard, or any part thereof, when so ordered into
12 the service of the United States, shall be subject to the rules
13 and articles of war and to the regulations of the army; and
14 any officer, non-commissioned officer, or private who, when
15 so ordered into the service of the United States, shall neglect
16 or refuse to report for duty therein shall be liable to trial,
17 conviction, and punishment for desertion, by a general court-
18 martial of the army of the United States; and no part of the
19 national guard, or of any other militia force in the United
20 States, shall be called into active service except in pursuance
21 of the provisions of this act or of authority to be hereafter
22 granted by Congress.

1 SEC. 26. *And be it further enacted,* That whenever
2 Congress shall declare war, such portion of the national guard
3 as Congress shall by law provide shall become a part of the
4 army of the United States; and any officer, non-commissioned
5 officer, or private, who shall refuse or neglect to report for
6 duty therein, in obedience to such law of Congress, shall be
7 liable to trial, conviction, and punishment for desertion, by a
8 general court-martial of the army of the United States; and
9 when peace shall be declared, either by an act of Congress

10 or by a proclamation of the President made pursuant to an
11 act of Congress, said troops shall, without unnecessary delay,
12 be mustered out of the army of the United States and into
13 the national guard.

1 SEC. 27. *And be it further enacted,* That whenever, in
2 time of war, Congress shall authorize an increase of the army
3 above the effective strength of the national guard, and the
4 quota of any congressional district or Territory shall not be
5 filled by volunteers within thirty days after the President's
6 proclamation announcing such quota, the President, unless it
7 shall be otherwise provided by law, shall cause the assistant
8 assessors of internal revenue to enrol the militia in such dis-
9 trict or Territory, and shall fill such quota by a draft from
10 the enrolled militia thereof, under such rules and regulations,
11 not inconsistent with the Constitution or laws, as he may
12 prescribe; and the troops so raised by volunteering or draft,
13 or both, shall have the company and regimental organiza-
14 tion herein provided for the national guard; but their
15 brigade and division organization shall be that of the
16 regular army; and when peace shall be declared, either by
17 an act of Congress or by a proclamation of the President
18 made in pursuance of an act of Congress, all troops raised in
19 accordance with the provision of this section shall be, without
20 unnecessary delay, mustered out of the service of the United
21 States; and the following persons shall be exempt from such

22 draft, viz: Such as are rejected as physically or mentally
 23 unfit for the service; also,

24 First. The Vice-President of the United States, the
 25 judges of the various courts of the United States, the heads
 26 of the various executive departments of the government, and
 27 the governors and judges of the several States.

28 Second. The only son liable to military duty of a widow
 29 dependent upon his labor for support.

30 Third. Where there are two or more sons of aged or
 31 infirm parents subject to draft, the father, or, if he be dead,
 32 the mother may elect which son shall be exempt.

33 Fourth. The only brother of children not twelve years
 34 old, having neither father nor mother, dependent upon his
 35 labor for support.

36 Fifth. The father of motherless children under twelve
 37 years of age, dependent upon his labor for support.

38 Sixth. Where there are a father and sons in the same
 39 family and household, and two of them are in the military
 40 service of the United States as non-commissioned officers,
 41 musicians, or privates, the residue of such family and house-
 42 hold, not exceeding two, shall be exempt.

43 Seventh. Indians not taxed.

44 Eighth. Persons convicted of felony; and no other per-
 45 sons shall be exempt.

1 SEC. 28. *And be it further enacted,* That the tactics,
 H. R. 1145—4

2 arms, accoutrements, equipments, uniform, colors, camp-
 3 colors, fifes, drums, tents, camp-kettles, mess-pans, saddles,
 4 bridles, and spurs, and the regulations for guard duty,
 5 for the forms of guard-mounting, inspection, review, and
 6 dress-parade, and for courts-martial, funeral ceremonies,
 7 salutes, and honors paid by the troops to be observed by the
 8 national guard, shall be those lawfully prescribed for the regu-
 9 lar army.

1 SEC. 29. *And be it further enacted,* That it shall not be
 2 lawful for any troops of the national guard to hold any muster,
 3 drill, parade, encampment, or other meeting under arms, on
 4 the day of any election appointed by the laws of any State or
 5 Territory or of the United States ; and any person guilty of
 6 a violation of the provisions of this section shall, upon indict-
 7 ment and conviction thereof, before any federal, State, or
 8 territorial court of competent criminal jurisdiction, be pun-
 9 ished by a fine not exceeding one thousand dollars, or by im-
 10 prisonment in any penitentiary or jail of the district, county,
 11 or Territory where the offence shall have been committed, for
 12 a period not exceeding one year, or both, at the discretion of
 13 the court, and shall pay the costs of prosecution.

1 SEC. 30. *And be it further enacted,* That all the powers,
 2 privileges, and duties conferred or imposed by the provisions
 3 of this act upon the governors of States shall be exercised in
 4 each State by such person as shall, under the constitution

5 and laws thereof, be the commander-in-chief of the militia
6 therein; and all provisions of this act relating to the Territo-
7 ries shall be equally applicable to the District of Columbia;
8 and all provisions hereof relating to the governors of Territo-
9 ries shall be equally applicable to the President, or other
10 legally constituted chief executive officer of said District; but
11 the powers and duties conferred and imposed by this act
12 upon the governors of Territories shall only be exercised or
13 performed by such governors of Territories as shall hold their
14 offices by authority and in pursuance of some act or acts of
15 the Congress of the United States.

1 SEC. 31. *And be it further enacted*, That from and
2 after the passage of this act commissions in the army of the
3 United States shall be granted only to graduates of the
4 United States Military Academy, and of the schools of the
5 national guard, and to officers, non-commissioned officers, and
6 privates of the regular and volunteer military, naval and
7 marine forces, and national guard, of not less than one year's
8 honorable service therein, and persons honorably discharged
9 therefrom, after not less than one year's service therein.

1 SEC. 32. *And be it further enacted*, That the field pieces,
2 carriages, caissons, equipments, and implements which shall
3 be issued, under the provisions of this act, to regimental com-
4 manders, shall be used under their supervision for the instruc-
5 tion and practice of their commands in the tactics for light

6 artillery prescribed for the army of the United States ; and,
7 with the approval of the brigade commander, the pieces and
8 caissons of each brigade may be temporarily united in a four-
9 gun battery, and served by volunteers or details from the
10 respective regiments, under officers detailed by the brigade
11 commander.

1 SEC. 33. *And be it further enacted,* That within eighteen
2 months after the passage of this act four schools of the
3 national guard shall be established, at places most convenient
4 for the several States and Territories, to be designated by
5 joint resolution of Congress, within one year after the
6 passage of this act, or by the President in case of the
7 failure of Congress so to designate the same; and the course
8 of instruction shall be the same as that prescribed for the
9 United States Military Academy; and a sufficient number of
10 competent instructors shall be provided by the Secretary of
11 War, by the detail of officers of the army of the United States,
12 and the employment of civilians when necessary; and all said
13 schools shall be under the superintendence of the Assistant
14 Secretary of War; and within one year after two regi-
15 ments of the national guard shall have been completely organ-
16 ized and mustered into service in any congressional district
17 or Territory, four cadets, and in each year thereafter two cadets,
18 shall be selected by competitive examination for said school
19 from the officers, non-commissioned officers, and privates of the

20 national guard of such district or Territory by a board consisting
21 of a majority of the field officers and captains therein, at such
22 times and places, and under such regulations, as the Assistant
23 Secretary of War may prescribe ; and at each annual selec-
24 tion of cadets, after the third, in any district or Territory,
25 so many shall be selected as will make the whole number
26 from said district or Territory equal to eight; and the pay
27 and allowances and uniform of such cadets shall be the same
28 as those of the cadets of the United States Military Academy ;
29 and after the said schools shall have been so located, the
30 Secretary of War shall, without unnecessary delay, purchase
31 sites for the same, erect the necessary buildings, and purchase
32 the necessary books, implements, and apparatus ; and, until
33 such buildings shall be in readiness for use, shall rent, in the
34 localities designated for such schools, buildings for the tem-
35 porary accommodation thereof on the most advantageous
36 terms ; and such cadets shall be admitted only between
37 the ages of eighteen and twenty-one years, but any officer,
38 non-commissioned officer, or private of the national guard, who
39 has honorably and faithfully served not less than one year as
40 an officer or enlisted man in the regular or volunteer military
41 service, or marine corps, or as an officer or seaman in the
42 naval service of the United States, in the late war for the
43 suppression of the rebellion, and who shall possess the other
44 qualifications prescribed by law, shall be eligible to appoint-

45 ment until the age of twenty-four years ; and said schools shall
46 be subject to such of the rules and regulations for the govern-
47 ment of the United States Military Academy, not inconsistent
48 with the provisions of this act, as the Assistant Secretary of
49 War shall from time to time direct ; but the academic year of
50 said schools shall commence at least five months earlier than
51 that of the United States Military Academy ; and all appoint-
52 ments of cadets in the United States Military Academy shall
53 be made from the schools of the national guard, as follows, viz:
54 every such appointment for any congressional district shall be
55 conferred upon the person of the highest capacity, merit, and
56 qualifications, among the cadets of such district in one of the
57 schools of the national guard, to be selected by the academic
58 board of such school, and nominated to the Secretary of War
59 under such regulations, not inconsistent with the provisions of
60 this act, as he may prescribe ; and three cadets in the United
61 States Military Academy shall be annually appointed at
62 large from each school, to be selected in like manner from
63 the whole number of cadets therein ; and the Assistant
64 Secretary of War shall so apportion the cadets of the several
65 districts and Territories that all the cadets from the same dis-
66 trict or Territory shall be assigned to the same school ; and
67 all graduates of said school shall, after their graduation, serve
68 three years in the national guard, or army, navy, or marine
69 corps, of the United States.

1 SEC. 34. *And be it further enacted*, That in order to
2 insure uniformity in the national guard, the Secretary of War
3 shall cause inspections of all the organizations thereof to be
4 made once in two years, by officers of the regular army, de-
5 tailed for that purpose, who shall report upon their discipline;
6 instruction in military duties and exercises; the state of their
7 arms, clothing, equipments and accoutrements of all kinds;
8 the state of the division, brigade, regimental, and company
9 books, papers and files; the zeal and ability of their officers;
10 the condition of all public property; the fidelity and care of
11 officers responsible therefor; and all other important matters
12 affecting the efficiency of said troops.

1 SEC. 35. *And be it further enacted*, That the salary of
2 the Assistant Secretary of War, to be appointed under the pro-
3 visions of this act, shall be five thousand dollars per annum.

1 SEC. 36. *And be it further enacted*, That the following
2 acts and parts of acts be, and the same are hereby, repealed,
3 namely: "An act more effectually to provide for the national
4 defence, by establishing an uniform militia throughout the
5 United States," approved May eight. seventeen hundred and
6 ninety-two; "An act to provide for calling forth the militia
7 to execute the laws of the Union, suppress insurrections, and
8 repel invasions, and to repeal the act now in force for those
9 purposes," approved February twenty-eight, seventeen hun-
10 dred and ninety-five, except the sixth and ninth sections

11 thereof; "An act additional to and amendatory of an act
12 entitled 'An act concerning the District of Columbia,'" ap-
13 proved May three, eighteen hundred and two; "An act in
14 addition to an act entitled 'An act more effectually to provide
15 for the national defence, by establishing an uniform militia
16 throughout the United States,'" approved March two,
17 eighteen hundred and three; "An act more effectually to
18 provide for the organization of the militia in the District
19 of Columbia," approved March three, eighteen hundred
20 and three; "An act making provision for arming and
21 equipping the whole body of the militia of the United States,"
22 approved April twenty-three, eighteen hundred and eight;
23 "An act supplementary to an act entitled 'An act more
24 effectually to provide for the organization of the militia of the
25 District of Columbia,'" approved July one, eighteen hundred
26 and twelve; and all acts and parts of acts inconsistent with
27 the provisions of this act; but no parts of acts repealed by
28 the acts hereby repealed shall revive; and all State and ter-
29 ritorial laws enacted to provide for organizing, arming, or dis-
30 ciplining the militia, or calling forth the same, or for organ-
31 izing or maintaining troops in time of peace, which shall
32 conflict with the provisions of this act, shall be inoperative
33 after the expiration of ninety days from and after the passage
34 of this act; and any person who shall thereafter attend any
35 drill, parade, muster, encampment, or other military exercise,

36 as an officer, non-commissioned officer, or private, of any
37 militia or military organization except the national guard
38 herein provided for, or the army or marine corps of the United
39 States, shall be guilty of a misdemeanor, and upon conviction
40 thereof shall be punished by a fine not exceeding one thousand
41 dollars, or by imprisonment not exceeding one year, or both, at
42 the discretion of the court, and shall pay the costs of prose-
43 cution.

H. R. 1145—5